

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON FEDERAL RELATIONS, ENERGY, AND TELECOMMUNICATIONS**

**Call to Order:** By **CHAIRMAN ROD BITNEY**, on March 19, 2003 at 3:00 P.M., in Room 455 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Rod Bitney, Chairman (R)  
Rep. Gary Matthews, Vice Chairman (D)  
Rep. Alan Olson, Vice Chairman (R)  
Rep. Dee Brown (R)  
Rep. Eileen J. Carney (D)  
Rep. Tim Dowell (D)  
Rep. Daniel Fuchs (R)  
Rep. Hal Jacobson (D)  
Rep. Jeff Laszloffy (R)  
Rep. Brennan Ryan (D)  
Rep. Jim Shockley (R)

**Members Excused:** Rep. Scott Mendenhall (R)  
Rep. John Parker (D)  
Rep. Diane Rice (R)

**Members Absent:** None.

**Staff Present:** Glenna McClure, Committee Secretary  
Mary Vandenbosch, Legislative Branch

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing & Date Posted: HB 666, 3/17/2003; SJ 22,  
3/17/2003; SB 138, 3/17/2003  
Executive Action: SB 316; SJR 13; SB 198; HB 666

**HEARING ON HB 666**

**Sponsor:** REP. DAVE GALLIK, HD 52

**Opening Statement by Sponsor:**

***{Tape: 1; Side: A; Approx. Time Counter: 1.3 - 6.9}***

**REP. GALLIK** said that this bill raises \$12 million for the General Fund. This tax bill will increase the Wholesale Energy Transaction (WET) tax from 0.2% to 0.9%. It will raise property tax bills approximately \$1.35 per year. House Bill 174 from the 1999 session changed the property tax classification for electrical generation properties from 12% to 6%. To replace lost revenues, the WET tax was created as part of HB 174. The WET tax is levied on electrical energy generated within the state whether it stays in the state or not. The WET tax can be compared to the bed tax in that the people who use the service are charged for the tax. In the year 2000 Montana produced 3,177 megawatts of power and consumed 1,663 megawatts. About 50% of the tax will be paid by those who do not reside in the state. He said that this is a jobs bill.

**Proponents' Testimony:**

***{Tape: 1; Side: A; Approx. Time Counter: 6.9 - 10.3}***

**Patrick Judge, Montana Environmental Information Center (MEIC)** said that they are in support of HB 666. He distributed a fact sheet that summarized his testimony.

**EXHIBIT (feh58a01)**

**Opponents' Testimony:**

***{Tape: 1; Side: A; Approx. Time Counter: 10.3 - 25.8}***

**John Fitzpatrick, Northwestern Energy,** said that they oppose this bill because the increased tax will be passed on to their customers.

**John Alke, Montana Dakota Utilities (MDU),** said that MDU is completely regulated. They pay the same taxes as Northwestern Energy and Pennsylvania Power and Light. MDU has not had a rate increase since 1986. The only increase that they have had is when the Universal Systems Benefits Program was mandated. HB 666 quadruples the tax and will be passed on to their customers. They oppose HB 666.

**Tom Ebzery, Attorney, Billings, representing PacifiCorp, Avista, Puget Sound Energy and Portland General Electric,** said that these four utilities are the majority owners of the Colstrip generating units in Rosebud County. He distributed several graphs. The first graph is a recap of taxes paid by all utility companies in Montana. The second graph indicates the property tax rates in Montana and other northwestern states. The third graph compares the current and proposed WET tax burden. The final graph indicates the income tax paid by the energy companies.

**EXHIBIT (feh58a02)**

**David Hoffman, Pennsylvania Power and Light Montana (PPL)** distributed a copy of his testimony.

**EXHIBIT (feh58a03)**

**Dave Wheelihan, Montana Electric Cooperatives Association,** said that they rise in opposition to HB 666.

**John Metropoulos, Asimi, Butte,** said that he is also in opposition to HB 666.

**Mary Whittinghill, Montana Taxpayers Association,** distributed a copy of a letter of testimony from Stephen Walsh, Montana Resources. She indicated that they are in opposition of any tax increase.

**EXHIBIT (feh58a04)**

Informational Testimony: None

Questions from Committee Members and Responses:

*{Tape: 1; Side: A; Approx. Time Counter: 25.8 - 27.8}*

**REP. RYAN** asked what the sponsor meant by a "jobs" bill.

**REP. GALLIK** said that all of the folks who came to testify have jobs.

**REP. CARNEY** asked the sponsor why the tax was raised so much.

**REP. GALLIK** said that he didn't look at it in terms of how much it increased but what the average ratepayer could absorb without costing too much.

**Closing by Sponsor:**

***{Tape: 1; Side: A; Approx. Time Counter: 27.8 - Tape:1; Side: B; 1.4}***

**REP. GALLIK** said that we don't like taxes, however, this is a very small increase. This tax increase should be considered to help with the budget problems. The object is to raise \$24 million over the biennium. He urged the committee to pass HB 666.

**EXECUTIVE ACTION ON SB 316**

***{Tape: 1; Side: B; Approx. Time Counter: 1.4 - 3.4}***

**Motion/Vote:** REP. CARNEY moved that SB 316 BE CONCURRED IN.  
Motion carried unanimously 10-0 by voice vote.

**Motion/Vote:** REP. BROWN moved HB 316 be placed on the consent calendar. Motion carried without objection.

**HEARING ON SJ 22**

**Sponsor:** SENATOR DANIEL W. MCGEE, SD 11

**Opening Statement by Sponsor:**

***{Tape: 1; Side: B; Approx. Time Counter: 3.4 - 8.3}***

**SEN. MCGEE** said that SJ 22 came at the request of the Senate Natural Resources Committee. It is a resolution regarding drilling for oil and gas in ANWR, which is the Arctic Natural Wildlife Refuge. He read the resolution to the committee and urged a do pass recommendation.

**EXHIBIT (feh58a05)**

**Proponents' Testimony:**

***{Tape: 1; Side: B; Approx. Time Counter: 8.3 - 17}***

**Gail Abercrombie, Montana Petroleum Association**, distributed information regarding ANWR which included graphs and pictures of the area in Alaska that is affected by this resolution. She urged the committee to pass SJ 22.

**EXHIBIT (feh58a06)**

**Keith Allen, International Brotherhood of Electrical Workers (IBEW) #233**, said that they are in support of this resolution. He distributed information on the "Faces of ANWR" which indicated support from organized labor, veterans, senior citizens, Alaskans, and information regarding the caribou.

**EXHIBIT (feh58a07)**

**Bob Pavlovich, IBEW #233**, said that he has been to Alaska. People there have indicated to him that they want oil exploration. Many of the animals congregate along the pipeline in the winter because it is warmer and the grass grows there. He urged the committee to pass the resolution.

**Jerry Driscoll, AFL-CIO**, said that this resolution also speaks about alternative energy and ways that we may become energy self-sufficient.

**Opponents' Testimony:**

*{Tape: 1; Side: B; Approx. Time Counter: 17 - 25.3}*

**Patrick Judge, Montana Environmental Information Center**, said that they are in opposition of this resolution. They see this area as a irreplaceable ecosystem that is rich and abundant in a wide variety of wildlife. They do, however, agree with the second half of the resolution regarding alternative energy exploration.

**Doug Bibler, Sierra Club**, provided written testimony from Janet Ellis of the Audubon Society. He said that we need to reduce our demand for oil or increase the supply. He said that there needs to be a focus on alternate sources of energy. He said that between 1996 and 2000 there were 1.3 million gallons of oil spilled. In the first six month of 2001 there were six oil spills over 1,000 gallons. In the current U.S. Senate a bill for allowing drilling in the Arctic was voted down this afternoon with a vote of 52-48. He said he hoped this committee would do the same with this resolution.

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

***{Tape: 1; Side: B; Approx. Time Counter: 25.3 - Tape: 2; Side: A; 1.7}***

**REP. JACOBSON** asked how many barrels of oil the United States consumes daily.

**Patrick Judge** said he didn't have that information.

**Closing by Sponsor:**

***{Tape: 2; Side: A; Approx. Time Counter: 1.7 - 4.7}***

**SEN. MCGEE** said that ANWR consists of around 19 million acres of land. The coastal plain constitutes approximately 105 million acres of land. The amount of land that would be affected by this proposal is 2,000 acres. It is an area of just over three square miles. This proposal will move us ahead in energy independence and will generate thousands of jobs. He encouraged the committee to pass SJ 22.

**HEARING ON SB 138**

**Sponsor:** SENATOR JOHN COBB, SD 25

**Opening Statement by Sponsor:**

SEN. COBB was testifying at another hearing and asked the committee to start the hearing without him. His written testimony was provided.

**EXHIBIT (feh58a08)**

**EXHIBIT (feh58a09)**

**Proponents' Testimony:**

***{Tape: 2; Side: A; Approx. Time Counter: 4.7 - 10.6}***

**Gene Walborn, Department of Revenue,** went over SEN. COBB's written testimony.

**Opponents' Testimony:**

***{Tape: 2; Side: A; Approx. Time Counter: 10.6 - 17.7}***

**Patrick Judge, Montana Environmental Information Center (MEIC)**, said that they are in opposition of SB 138. They agreed with SB 506 in the 2001 Legislature that provided tax relief for all alternative energy generation.

**James Carkulis** said the reduction of tax relief will discourage the development of wind generators and other alternate energy sources.

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

*{Tape: 2; Side: A; Approx. Time Counter: 17.7 - 23}*

**REP. BROWN** asked to clarify how this bill is changing the rules midstream.

**Mr. Walborn** said that it is not changing the rules, it is clarifying the law. Page 1, Line 20-21 was not clear. This bill clarifies the intent of the 2001 Legislature. If their intent was to provide for a permanent tax credit, reference to the "first five years" would have been eliminated.

**REP. BROWN** asked about the retroactivity built into the bill.

**Mr. Walborn** said that retroactivity has not been a problem.

**Closing by Sponsor:**

CHAIRMAN BITNEY recessed the hearing until SEN. COBB could present closing comments.

**Note:** SEN. COBB did not arrive, therefore CHAIRMAN BITNEY closed the hearing later in the meeting.

**EXECUTIVE ACTION ON SJ 13**

*{Tape: 2; Side: A; Approx. Time Counter: 23 - 28.5}*

**Motion:** REP. DOWELL moved that SJ 13 BE CONCURRED IN.

**Discussion:**

**REP. CARNEY** said that this bill may be beneficial.

**REP. BROWN** said that if this bill is passed, a conceptual amendment should be added to assign it to the proper committee.

**Mary Vandenbosch** indicated that the Legislative Council could do this.

**Vote:** Motion that SJ 13 BE CONCURRED IN carried unanimously 14-0 by roll call vote. **REPS. MENDENHALL, PARKER and RICE** voted by proxy.

**Motion:** **REP. BROWN** moved SJ 13 be placed on the consent calendar.

**Discussion:**

**REP. DOWELL** indicated that he didn't necessarily object to placing it on the consent calendar, but wondered if it would be a good idea for the body to know more about it.

**REP. DOWELL** did then object to it being placed on the consent calendar. He offered to carry the bill in the House.

**EXECUTIVE ACTION ON SB 198**

*{Tape: 3; Side: A; Approx. Time Counter: 1 - 18}*

**Motion:** **REP. OLSON** moved that SB 198 BE CONCURRED IN.

**Motion:** **REP. DOWELL** moved that SB 198 BE AMENDED.

**Discussion:**

There was much discussion regarding the amendments and the responsibility of this committee to make decisions that help for their constituents to have a say in where cell phone towers are placed.

**Mary Vandenbosch** further explained the amendments.

**Vote:** Motion that SB 198 BE AMENDED failed 6-8 with **REPS. CARNEY, DOWELL, JACOBSON, PARKER, RYAN, and SHOCKLEY** voting aye by roll call vote. **REPS. FUCHS, MENDENHALL, RICE and PARKER** voted by proxy.



**Note:** REP. FUCHS returned to the meeting prior to the vote to table SB 198

**Discussion:**

There was some discussion on the bill.

**Motion/Vote:** REP. OLSON moved that SB 198 BE TABLED. Motion carried 8-6 with REPS. CARNEY, DOWELL, JACOBSON, PARKER, RYAN, and SHOCKLEY voting no by roll call vote. REPS. MENDENHALL, PARKER, and RICE voted by proxy.

**EXECUTIVE ACTION ON HB 666**

*{Tape: 3; Side: A; Approx. Time Counter: 18 - 20}*

**Motion:** REP. OLSON moved that HB 666 DO PASS.

**Discussion:**

There was some discussion regarding the bill.

**Motion/Vote:** REP. FUCHS moved that HB 666 BE TABLED. Motion carried 10-4 with REPS. CARNEY, DOWELL, PARKER, and RYAN voting no by roll call vote. REPS. MENDENHALL, PARKER, and RICE voted by proxy.

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**ADJOURNMENT**

Adjournment: 4:50 P.M.

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REP. ROD BITNEY, Chairman

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GLENNA MCCLURE, Secretary

RB/GM

**EXHIBIT (feh58aad)**